

**In the
Indiana Supreme Court**

**IN THE MATTER OF
REQUEST FOR APPROVAL
OF DISTRICT AND LOCAL RULE
FOR COURTS OF RECORD IN
JUDICIAL DISTRICT 26**

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FILED

DEC 17 2015

**PATRICIA E. PERRY
CLERK WARRICK CIRCUIT AND SUPERIOR COURTS**

**NOTICE OF PROPOSED RULE CONCERNING SPECIAL JUDGE SELECTION IN
CIVIL AND CRIMINAL CASES, FINDING GOOD CAUSE TO DEVIATE FROM THE
SCHEDULE FOR ADOPTING DISTRICT AND LOCAL RULES, AND
REQUEST FOR SUPREME COURT APPROVAL
December 17, 2015**

In accordance with Trial Rule 81 of the Indiana Court Rules, the judges of **Judicial District 26**, which includes the counties the **Posey, Gibson, Vanderburgh, and Warrick**, hereby give notice to the bar and the public that the Courts propose to adopt a district rule on special judge selection in civil and criminal cases. Each county will adopt this district rule, incorporate it into their county local court rules, and replace their current county local rules on special judge selection in civil and criminal cases with this new district rule. The Judges find that good cause exists to deviate from the schedule for adopting or amending district and local rules. Supreme Court approval is required and requested for this action.

Comment Period and Effective Date

The time period for the bar and the public to comment will begin on **December 18, 2015**, and will close on **January 22, 2016**. The effective date for the new District and Local Rule will be **February 1, 2016**.

Comments

Comments by the bar and the public should be made in writing and mailed, or emailed, to Brent S. Almon, Judge, Posey Superior Court at P.O. Box 604 Coliseum, Mount Vernon, IN 47620 or

brentalmon@yahoo.com.

A paper copy of the proposed District 26 and counties local rule will be made available for viewing in the office of the Clerks of Posey, Gibson, Vanderburgh, and Warrick Counties, in their respective offices. Persons with Internet access may view the proposed new district and county local rule on the Indiana Judicial Website at:

<http://www.in.gov/judiciary/2794.htm>

For the Courts of Record of Judicial District 26,

FILED

DEC 17 2015

PATRICIA E. PERRY
CLERK WARRICK CIRCUIT AND SUPERIOR COURTS

_____/S/_____
The Honorable Brent S. Almon
Posey Superior Court

New District 26 Rule on Special Judge Selection

TR 79(H), CR 13

In any District 26 circuit or superior court: 1) upon entry of an order granting a change of judge or entry of an order of recusal or disqualification in all civil or juvenile proceedings, if the parties shall fail to timely file an agreement in writing to an eligible special judge, or the judge so selected by the parties declines acceptance of the appointment as special judge (all as provided by TR 79 (D)); or 2) upon entry of an order granting a change of judge or entry of an order of recusal or disqualification in all criminal cases (see CR 12, 13); in all such cases (civil, juvenile and criminal) the appointment of an eligible special judge shall be made pursuant to this District 26 Rule:

1. The case shall be randomly assigned to one of the other judges or full-time judicial officers in the county of origin by the same process in which the case was initially assigned. This process shall be continued until qualification of a special judge or until each judge or full-time judicial officer in the county in which the case originated has been disqualified or been excused from service by the Indiana Supreme Court. If all judges or full-time judicial officers in the county in which the case originated shall disqualify or be excused from service by the Indiana Supreme Court, the judge exercising jurisdiction pending selection of a special judge shall refer the case to the Administrator of the Vanderburgh Superior Court ("Administrator") for assignment of a special judge. The Administrator shall assign a civil case to a judge or full-time judicial officer eligible for such service pursuant to TR 79(J) and serving in a District 26 court outside the county in which the case originated, or are from a contiguous county outside District 26 and have agreed to serve as special judge in the court where the case is pending. The Administrator shall assign a criminal case to a judge or full-time judicial officer from contiguous counties and counties within District 26. The assignment shall be made as set forth in paragraph 2.
2. The Administrator shall maintain a current list of District 26 judges and full-time judicial officers eligible pursuant to TR 79(J) for appointment as special judge in civil cases, and a current list of judges and full-time judicial officers from contiguous counties and counties within District 26 for appointment as special judge in criminal cases ("Civil and Criminal Cases Special Judge Lists"). Upon referral of a case for assignment of a special judge, the Administrator shall immediately assign a judge or full-time judicial officer from either the civil or criminal Special Judge List seriatim and notify the court where the case is pending of the assignment. The judicial officer exercising jurisdiction shall enter an order of appointment and notify the judicial officer so selected of the order of

appointment. As required by TR 79 (H) or CR 13, the judicial officer appointed to serve under this paragraph 2 must accept jurisdiction in the case unless the appointed special judge is disqualified pursuant to the Code of Judicial Conduct, ineligible for service under TR 79 or CR 13, or excused from service by the Indiana Supreme Court. If the appointed judicial officer is disqualified, ineligible, or excused from service, the Administrator shall again assign from the Special Judge List seriatim. This process shall continue until jurisdiction vests in a special judge so selected. If no judicial officer in District 26 shall qualify, the case shall be referred to the Indiana Supreme Court for appointment of a special judge.

3. As provided by TR 79(H) or CR 13, the order of appointment made pursuant to this District 26 rule by the court in which the case is pending shall constitute acceptance. An oath or additional evidence of acceptance of jurisdiction is not required.
4. Any judicial officer assigned by the Administrator as special judge who is disqualified pursuant to the Code of Judicial Conduct, ineligible for service under TR 79(J), or excused from service by the Indiana Supreme Court, shall remain on the list in the same numeric place from which assigned. The first such judicial officer assigned who does not serve shall accordingly be the first assigned to the next case referred to the Administrator for assignment of a special judge. Unless unavoidable, all District 26 judges and full-time judicial officers eligible for service as a special judge pursuant to TR 79(J) shall serve as a special judge before the Administrator may twice assign the same person from the Special Judge List as a special judge.

. Warrick Superior Court 2

From: Maguire, James
Sent: Thursday, December 17, 2015 7:36 AM
To: Diller, Jim; James, Angela
Cc: Almon, S. Brent; Earl Penrod; Pigman, Robert; D'Amour, Richard; Lloyd, Mary Margaret; Meade, Jeff; Kiely, David; Niemeier, Brett; Shively, Leslie; Tornatta, Robert J; Granger, Greg A.; Winsett, J. Zach; Aylsworth, Robert R.; Redwine, James M; Carusillo, Tom
Subject: Notice and Proposed District 26 and County Local Rule on Special Judge Selection in Civil and Criminal Cases
Attachments: District 26 Counties Notice and Proposed DR on Special Judge Selection 12.17.2015 .pdf

I. Dear Webteam:

Please post on the judicial website the attached **Notice and Proposed District 26 and County Local Rule** on special judge selection in civil and criminal cases.

Post this for **District 26** and on the websites of the following counties:

**Gibson
Posey
Vanderburgh
Warrick**

Supreme Court approval is required.

Comments begin on **December 18, 2015** and will close on **January 22, 2016**.

The requested effective date is **February 1, 2016**.

II. Dear District 26 Judges:

Notice should also be given locally, as required by TR 81, by posting on the website, or in the office, of the **county Clerk**,
and by sending it to the officers of the local bar association.

Thank you.

James Maguire
Staff Attorney

12/17/2015